

Queen Annes County, MD
Saturday, May 19, 2012

Chapter 19. NUISANCES; CONDUCT OF AGRICULTURAL AND SEAFOOD OPERATIONS

[HISTORY: Adopted by the Board of County Commissioners of Queen Anne's County as indicated in part histories. Amendments noted where applicable.]

GENERAL REFERENCES

Definitions — See Ch. 2.
Rules of interpretation — See Ch. 3.
Animal control — See Ch. 9.
Construction codes — See Ch. 10.
Housing — See Ch. 15.
Land use and development — See Ch. 18.

Part 1. Nuisances

[HISTORY: Adopted by the Board of County Commissioners of Queen Anne's County as indicated in part histories. Amendments noted where applicable.]

GENERAL REFERENCES

Definitions — See Ch. 2.
Rules of interpretation — See Ch. 3.
Animal control — See Ch. 9.
Construction codes — See Ch. 10.
Housing — See Ch. 15.
Land use and development — See Ch. 18.

Article I. Definitions

§ 19-1. Terms defined.

In this Part 1, the following words have the meanings indicated:

AFFECTED PERSON

A contiguous property owner or resident.

ENFORCEMENT OFFICER

The individual designated by the County Commissioners to exercise the authority and perform the functions and duties set out in this Part 1.

GARBAGE

A. All organic waste:

- (1) Consisting of the residue of animal, fruit or vegetable matter; and

(2) Resulting from the preparation, cooking, handling, or storage of food.

B. "Garbage" does not include human or animal feces.

JUNK

Old or scrap:

A. Copper and brass;

B. Rope;

C. Rags;

D. Batteries;

E. Paper;

F. Trash;

G. Rubber debris, including tires;

H. Waste;

I. Iron, steel and any other old or scrap material, including wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts; or

J. Household appliances.

REFUSE

Ashes, garbage, rubbish, junk, industrial waste, motor drain oil, dead animals, and all other solid waste materials, including salvageable waste.

RESIDENTIAL AREA

An area having an average housing density of one acre or less per dwelling unit.

RUBBISH

A. All refuse other than garbage, whether combustible or noncombustible.

B. Includes but is not limited to:

(1) Rubbish from building construction or reconstruction;

(2) Dead trees and uprooted tree stumps;

(3) Slash;

(4) Rubble;

(5) Street refuse;

(6) Two or more untagged vehicles;

(7) Inoperative lawn and garden machinery;

(8) Household appliances;

(9) Machinery;

(10) Bottles and cans;

(11) Plastic;

- (12) Wastepaper;
- (13) Cardboard;
- (14) Sawdust piles and slash remaining from abandoned sawmill operations; and
- (15) All other waste materials and unsightly debris from any industry.

UNFIT STRUCTURES

Any vacant dwelling, building or part of a vacant dwelling or building that is a hazard to the safety, health, or welfare of the public because it is in disrepair, unsanitary or vermin or rodent infested.

VEHICLE

- A. A device, such as a piece of mechanized equipment, for transporting goods, passengers or equipment.
- B. Includes but is not limited to cars, trucks, motorcycles and boats.

Article II. Specific Regulations

§ 19-2. Nuisances enumerated.

- A. In general. Each act or condition that is prohibited by this section constitutes a nuisance under this Part 1.
- B. Deposit or accumulation on land, street, or highway. Unless done in a manner approved by the Enforcement Officer or a properly designated agent of the Enforcement Officer, a person may not deposit or accumulate on any land, street or highway:
 - (1) Any foul, decaying or putrescent substance;
 - (2) Any garbage, refuse or rubbish; or
 - (3) Any other offensive matter.
- C. Discharge from mobile vehicle holding tank. Except for normal agricultural practices, a person may not discharge any foul liquids or sewage from any type of mobile vehicle holding tank except into an approved sewer or treatment works.
- D. Disposal. A person may not dispose of human excreta, dead chickens, hogs, horses, cows, sheep, dogs or cats or any other fowl or animal on any land, street, or highway or in or on any public or private place unless the matter is:
 - (1) Buried to a suitable depth; or
 - (2) Otherwise disposed of in a manner approved by the Enforcement Officer.
- E. Conveying through street or highway.
 - (1) This subsection does not prohibit:
 - (a) The activities of licensed septage haulers; or
 - (b) The transportation of sludge or sludge products otherwise licensed or allowed by law.
 - (2) A person may not convey garbage, swill, refuse, dead animals, dead fowl or other filthy matter through any street or highway, public or private, in a manner not approved by the Enforcement Officer.

- F. Use as landfill. Except for licensed or governmentally operated sanitary landfills, a person may not use garbage, offal or other decaying or putrescent matter, either by itself or in connection with ashes or other harmless matter, to fill in any land or other space.
- G. Unfit structure. A person may not permit any unfit structure to exist.
- H. Rodent control. A person may not fail to exercise proper rodent control measures to discourage or eliminate the presence of rats.
- I. Presence for more than 30 days.
- (1) This subsection does not prohibit junkyards that are allowed and operated under the Queen Anne's County Zoning Regulations.
 - (2) A person may not allow on any property for more than 30 days the presence of junk, garbage, refuse or rubbish that is stored or maintained:
 - (a) In an unsafe or unsanitary manner; or
 - (b) Within 200 feet of a public or private road or dwelling.
- J. Hazardous substances. A person may not deposit or store materials containing a substance defined or identified as a hazardous substance under Title 7, Subtitle 2, of the Environment Article of the Annotated Code of Maryland on any land in Queen Anne's County.
- K. Vehicles not legally tagged.
- (1) This subsection does not apply to an off-road recreational vehicle that is:
 - (a) Manufactured for off-road use and recreation; and
 - (b) Operational, regardless of whether the vehicle is tagged.
 - (2) A person may not allow the presence of more than one vehicle that is not legally tagged for use on public roads, streets, highways or waterways.
 - (3) "Vehicle" under Subsection K(2) of this section includes trailers.
- L. Height of vegetation.
- (1) This subsection does not apply to:
 - (a) Trees, cultivated crops or cultivated ornamental shrubbery or plants;
 - (b) Lots or parcels of land devoted to a bona fide agricultural use or designated by any governmental agency as a wildlife preserve, official wetlands or forests; or
 - (c) Areas required to be maintained in a natural vegetative state by any governmental agency.
 - (2) A person may not allow any vegetation to grow higher than 12 inches on any lot or parcel of land that is:
 - (a) Less than three acres in size; and
 - (b) Located in an approved or recorded residential subdivision or any part of which is within 200 feet of a neighboring residence.

§ 19-3. Responsibility of owner and occupant of property.

- A. Sanitary condition of premises .The owner and occupant of any premises in Queen Anne's County are responsible for the sanitary condition of the premises.
- B. Nuisance prohibited. A person may not place, deposit, maintain or voluntarily allow to be placed, deposited or maintained on the person's premises any matter that constitutes a nuisance under this Part 1.
- C. All household waste in Queen Anne's County shall be stored in closed containers which are rodent and fly proof and which are securely sealed to prevent accidental spillage or infestation.

[Added 7-28-2009 by Ord. No. 09-15]

- D. No household waste in Queen Anne's County shall be allowed to accumulate for more than two weeks before the same is properly disposed of by transportation to an approved sanitary landfill. Notwithstanding the foregoing provision, no household waste shall be allowed to remain on residential property for any period if the same becomes foul, decaying or putrescent.

[Added 7-28-2009 by Ord. No. 09-15]

- E. The provisions of this section shall not be construed to prohibit or prevent the bona fide composting of organic material, including household organic materials, by any owner or occupant of property in Queen Anne's County

[Added 7-28-2009 by Ord. No. 09-15]

- F. Any violation of this section shall be deemed a civil infraction under § 13C of Article 25B of the Annotated Code of Maryland, subject to present fine of \$100 for the first offense, \$250 for a second offense and \$1,000 for a third or subsequent offense.

[Added 7-28-2009 by Ord. No. 09-15]

Article III. Enforcement**§ 19-4. Duty to enforce.**

The Enforcement Officer and the law enforcement officers who have jurisdiction in Queen Anne's County shall enforce this Part 1.

§ 19-5. Enforcement Officer.

- A. Designation. The County Commissioners shall designate a qualified individual to be the Enforcement Officer under this Part 1.
- B. Investigation. The Enforcement Officer may conduct an investigation when the Enforcement Officer:
 - (1) Receives a complaint, in writing, from any legally qualified medical practitioner, affected person or homeowners' association; or
 - (2) Determines that there is a reasonable basis to believe that a violation of this Part 1 exists.
- C. Notice of abatement. If the Enforcement Officer determines that an act or condition constitutes a nuisance under this Part 1, the Enforcement Officer may serve a notice, in writing, on the person responsible for the condition requiring the person to abate the act or condition within a time specified in the notice.

§ 19-6. Enforcement by County Commissioners.

- A. Action to abate nuisance. The County Commissioners may take any action legally necessary to abate a nuisance, including applying to a court of competent jurisdiction for an injunction.
- B. Abatement and assessment.
 - (1) In addition to any other enforcement procedures under this Part 1, the County Commissioners may:
 - (a) Abate any nuisance by any appropriate means; and
 - (b) Assess the property owner for the costs of the abatement.
 - (2) An assessment under this subsection:
 - (a) Is a lien against the real property that benefited from the abatement of the nuisance; and
 - (b) May be collected in the same manner as County real estate taxes.

Article IV. Violations and penalties**§ 19-7. Failure to abate nuisance.**

- A. Penalty. Under § 13C of Article 25B of the Annotated Code of Maryland, a person who fails to abate a nuisance is guilty of a civil infraction and is subject to a fine of not less than \$25 but not exceeding \$500.
- B. Each day a separate offense. Each day that a violation continues is a separate offense.

Part 2. Right To Farm

- A. Penalty. Under § 13C of Article 25B of the Annotated Code of Maryland, a person who fails to abate a nuisance is guilty of a civil infraction and is subject to a fine of not less than \$25 but not exceeding \$500.
- B. Each day a separate offense. Each day that a violation continues is a separate offense.

Article V. Conduct of Agricultural Operations**§ 19-8. Findings and policy.**

- A. It is the declared policy of the County to preserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. When nonagricultural land uses extend into agricultural areas, agricultural operations can become the subject of lawsuits. As a result, agricultural operators are sometimes forced to cease or curtail their operations. Others are discouraged from making investments in agricultural improvements to the detriment of the economic viability of the County's agricultural industry as a whole. It is the purpose of this Part 2 to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance, trespass, or other interference with the reasonable use and enjoyment of land, including, but not limited to, smoke, odors, flies, dust, noise, chemicals, or vibration, providing that nothing in this Part 2 shall in any way restrict or impede the authority of the state and of the County to protect the public health, safety, and welfare.

- B. It is in the public interest to promote a more clear understanding between agricultural operations and nonagricultural residential neighbors concerning the normal inconveniences of agricultural operations which follow generally accepted agricultural practices and do not endanger public health or safety.
- C. This Part 2 is not intended to and shall not be construed as in any way modifying or abridging local, state, or federal laws relating to health, safety, zoning, licensing requirements, environmental standards and the like.
- D. An additional purpose of this Part 2 is to promote a good-neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or use. These potential problems include, but are not limited to, noises, odors, dust, flies, chemicals, smoke, vibration, and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas. However, this Article V shall be effective regardless of whether disclosure was made in accordance with § 19-11.1.

§ 19-9. Definitions.

As used in this Part 2, the following terms shall have the meanings indicated:

AGRICULTURAL LAND

All real property within the boundaries of Queen Anne's County that is lying in the Agricultural District, or that is lying in other zoning districts if carried on the tax rolls of the State Department of Assessments and Taxation as agricultural or that is lying in other zoning districts if it has been used as an agricultural operation continuously for one year.

AGRICULTURAL OPERATION

Includes, but is not limited to, all matters set forth in the definition of "operation" in the Courts and Judicial Proceedings Article of the Annotated Code § 5-403(a), as amended from time to time; the production of all matters encompassed within the definition of "farm product" in the Agriculture Article of the Annotated Code § 10-601(c), as amended from time to time; the cultivation and tillage of the soil; composting; production, harvesting, and processing of agricultural crops; raising poultry; production of eggs; production of milk and dairy products; production of livestock, including pasturage and equine enterprises; production of bees and their products; production of fish; production of fruit, vegetables, and other horticultural crops; production of aquatic plants; agricultural; production of timber and any commercial agricultural procedure performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market; and usage of land in furtherance of educational and social goals, such as 4-H, Future Farmers of America, and the like.

GENERALLY ACCEPTED AGRICULTURAL PRACTICES

Those methods used in connection with agricultural operations which do not violate applicable federal, state, or local laws or public health, safety and welfare and which are generally accepted agricultural practices in the agricultural industry. "Generally accepted agricultural practices" include but are not limited to practices which are recognized as best management practices and those methods which are authorized by various governmental agencies, bureaus, and departments, such as the Queen Anne's County Cooperative Extension Service of the University of Maryland, and the like. If no generally accepted agricultural practice exists or there is no method authorized by those agencies mentioned herein which governs a practice, the practice is presumed to be a generally accepted agricultural practice.

§ 19-10. Limitation of actions.

- A. A private action may not be sustained with respect to an agricultural operation conducted on agricultural land on the grounds that the agricultural operation interferes or has interfered with

the use or enjoyment of property, whether public or private, if the agricultural operation was, at the time the interference is alleged to arise, conducted substantially in accordance with generally accepted agricultural practices.

- B. Notwithstanding any provision of this section, no action alleging that an agricultural operation has interfered with the reasonable use or enjoyment of real property or personal well-being shall be maintained if the plaintiff has not sought and obtained a final judgment of the Agricultural Reconciliation Committee, as defined in § 19-11 herein.

§ 19-11. Resolution of disputes and procedure for complaints; investigation and declaration.

A. Nuisances which affect public health.

- (1) Complaints. A person may complain to the Agricultural Reconciliation Committee to declare that a nuisance which affects public health exists.
- (2) Investigations. The Agricultural Reconciliation Committee may investigate all complaints of nuisance received against an agricultural operation. When a previous complaint involving the same condition resulted in a determination by the Agricultural Reconciliation Committee that a nuisance condition did not exist, the Agricultural Reconciliation Committee may investigate the complaint, but the Agricultural Reconciliation Committee may also determine not to investigate such a complaint. The Agricultural Reconciliation Committee may initiate any investigation without citizen complaint.
- (3) Declaration of nuisance. If the Agricultural Reconciliation Committee determines that a nuisance exists, the Agricultural Reconciliation Committee may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with an agricultural operation, the Agricultural Reconciliation Committee shall apply the criteria provided in this Part 1. Further, the Agricultural Reconciliation Committee may consider the professional opinion of the Queen Anne's County Cooperative Extension Service of the University of Maryland, or other qualified experts in the relevant field in determining whether the agricultural operation being investigated is conducted in accordance with generally accepted agricultural management practices.

B. Resolution of disputes regarding agricultural operations.

- (1) Should any matter arise regarding an interference with the use or enjoyment of property from agricultural operations conducted on agricultural land, the parties (not to include third parties other than counsel) to that matter shall submit the matter to the Agricultural Reconciliation Committee by first contacting the Agricultural Land Preservation Program Administrator, Queen Anne's County Department of Economic Development, Agricultural and Tourism.
- (2) There is hereby established the Queen Anne's County Agricultural Reconciliation Committee, which shall arbitrate and mediate disputes involving agricultural operations conducted on agricultural lands and issue opinions on whether such agricultural operations are conducted in a manner consistent with generally accepted agricultural management practices.
- (3) The Agricultural Reconciliation Committee shall be composed of six persons that reside in Queen Anne's County. The Queen Anne's County Board of County Commissioners shall appoint the members of the Agricultural Reconciliation Committee. One member shall be from a municipality, one member shall be involved in the real estate industry, one member shall be the Queen Anne's County Environmental Health Officer, one member shall be a person who is not engaged or otherwise has a pecuniary interest in the commercial practice of agriculture, and two members shall be from the agricultural community.

- (4) The Agricultural Reconciliation Committee will conduct its proceedings in an informal manner, and the rules of evidence shall not apply. The Agricultural Reconciliation Committee has the power, but is not required hereunder, to hold hearings, to compel testimony under oath and the production of documents. In each case before it, the Agriculture Reconciliation Committee shall issue orders settling or otherwise resolving controversies arising out of agriculture operations, including but not limited to the invasion of property and personal rights by agricultural operations conducted on agricultural land. Proceedings shall be conducted in accordance with the duly adopted Rules of Procedure for the Agricultural Reconciliation Committee which may be amended from time to time. The Agricultural Reconciliation Committee will render a written decision within 30 days of the final proceedings and may extend the decision deadline for one additional thirty-day period.
- (5) Orders of the Agricultural Reconciliation Committee shall be binding on the parties as a matter of law, but their enforcement shall be suspended by operation of law if, within 30 days of the date of the Committee's judgment, a party appeals such order to the Circuit Court for Queen Anne's County. Appeal from orders of the Committee shall be by a trial de novo.
- (6) If the Agricultural Reconciliation Committee or a Court finds that the conduct of a party in bringing or maintaining an action in connection with an agricultural operation conducted on agricultural land was in bad faith or without substantial justification, the Agricultural Reconciliation Committee or court may require that party to pay to the owner of the agricultural operation the costs of the proceeding and the reasonable expenses, including reasonable attorney's fees, incurred by that party in defending against the action.

§ 19-11.1. Right to farm notice and real estate transfer disclosure.

- A. Upon any transfer of real property by any means, the transferor shall provide the purchaser or lessee a statement specifically advising the purchaser or lessee of the existence of this Article V which shall be in substantially the form set forth in Appendix A at the end of this chapter.
- B. Any person who violates any provision of this section is guilty of an infraction punishable by a civil penalty not exceeding \$100. Failure to comply with any provision of this right to farm notice and real estate transfer disclosure section shall not prevent the recording of any document, or the title to real property or any mortgage or deed of trust made in good faith or for value, and it shall not affect the application of this Part 2.

Part 3. Right to Conduct Seafood Operations

- A. Upon any transfer of real property by any means, the transferor shall provide the purchaser or lessee a statement specifically advising the purchaser or lessee of the existence of this Article V which shall be in substantially the form set forth in Appendix A at the end of this chapter.
- B. Any person who violates any provision of this section is guilty of an infraction punishable by a civil penalty not exceeding \$100. Failure to comply with any provision of this right to farm notice and real estate transfer disclosure section shall not prevent the recording of any document, or the title to real property or any mortgage or deed of trust made in good faith or for value, and it shall not affect the application of this Part 2.

Article VI. Conduct of Seafood Industry Operations

§ 19-12. Findings and policy.

- A. It is declared policy of Queen Anne's County to preserve, protect and encourage the preservation and improvement of its waterways for the harvesting of seafood. It is the purpose of this Part 3 to reduce the loss to the County of its commercial seafood and fishing industry by limiting the circumstances under which commercial seafood and fishing industry operations

may be deemed to constitute a nuisance or trespass, and to limit interference with the reasonable practices associated with the handling, harvesting, buying, selling, loading, unloading, transporting and processing of commercial seafood, including, but not limited to, boats leaving and returning at various hours, painting, preparation and cleaning of crab pots, use of chemicals, paints, dust and power tools, maintenance of boats and any and all other equipment, the running and operation, noise, smell and presence of machinery and equipment associated with commercial seafood operating at any and all hours, provided that nothing in this chapter shall in any way restrict or impede the authority of the state and of the County to protect the public health, safety and welfare.

- B. It is in the public interest to promote a clearer understanding between seafood industry operators and residential neighbors concerning the normal inconveniences of seafood industry operations are generally accepted seafood industry practices.
- C. This Part 3 is not intended to and shall not be construed as in any way modifying or abridging local, state or federal laws relating to health, safety, zoning, licensing requirements, environmental standards (including those standards which relate to air and water quality), and the like.
- D. An additional purpose of this Part 3 is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near commercial seafood operations of the inherent potential problems associated with such purchase or use. These potential problems include, but are not limited to, boats leaving and returning at all hours, painting crab pots, use of chemicals, paints, dust and power tools, the maintenance of boats and any and all other equipment, the running and operation, noise, smell and presence of machinery and equipment associated with commercial seafood operating at various hours. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near commercial seafood operations and be prepared to accept attendant conditions as the natural result of living in or near areas which have such operations. This Part 3 shall be effective regardless of whether disclosure was made in accordance with the provisions of § 18:1-180.

§ 19-13. Definitions.

As used in this Part 3, the following terms shall have the meanings indicated:

COMMERCIAL SEAFOOD OPERATION

Includes, but is not limited to, all matters relating to the harvest of seafood in Queen Anne's County, including boats leaving and returning at all hours, painting of crab pots, the use of bait, salt, paints, dust and power tools, the maintenance of boats and any and all other equipment, the running and operation, noise, smell and presence of machinery and equipment associated with commercial seafood operating at any and all hours; including the activities of workers and the operation of boats, generators, ice making, refrigerated trucks, chum trucks, boilers, steam generators, cooking, fork lifts, heating equipment, cooling equipment, soft crab shedding equipment, tanks, pallets, cooking baskets and drums.

GENERALLY ACCEPTED SEAFOOD INDUSTRY PRACTICES

Those methods used in connection with the commercial seafood and fishing industries which do not violate applicable federal, state or local laws or public health, safety and welfare and which are generally accepted commercial seafood and fishing practices in the commercial seafood and fishing industry. Generally accepted seafood industry practices include those methods which are authorized by various governmental agencies, bureaus and departments. If no generally accepted seafood industry practices exist or there is no method authorized by those agencies mentioned herein which governs a practice, the practice is presumed to be a generally accepted seafood industry practice.

HEALTH OFFICER

The Director of Environmental Health for the Queen Anne's County Health Department or his designee.

LAND

All real property within the boundaries of Queen Anne's County and all territorial waters, rivers, bays and creeks located within Queen Anne's County.

§ 19-14. Limitation of actions.

- A. A private action may not be maintained with respect to a seafood industry operation on the grounds that the seafood industry operation interferes or has interfered with the use or enjoyment of property, whether public property owned by the County or private, if the seafood operation is conducted substantially in accordance with generally accepted seafood industry practices.
- B. Notwithstanding any provision of this section, no action alleging that a seafood industry operation has interfered with the reasonable use or enjoyment of real property or personal well-being shall be maintained if the plaintiff has not sought arbitration through the Seafood Reconciliation Committee.

§ 19-15. Establishment of Seafood Reconciliation Committee; membership.

- A. There is hereby established the Queen Anne's County Seafood Reconciliation Committee, which shall arbitrate and mediate disputes involving seafood industry operations and issue opinions concerning whether or not such seafood operations are conducted in a manner consistent with generally accepted seafood industry practices.
- B. Composition.
 - (1) The Seafood Reconciliation Committee shall be composed of five persons appointed by the Queen Anne's County Commissioners. The Committee shall be composed of:
 - (a) At least two members from the seafood industry;
 - (b) At least one member from a municipality;
 - (c) At least one member from a real estate interest; and;
 - (d) One other member from the community not actively engaged in the seafood industry.
 - (2) A representative of the Maryland Watermen's Association and a representative of the State of Maryland Department of Natural Resources shall be appointed by the Queen Anne's County Commissioners to serve as ex officio, nonvoting members of the Committee. In any dispute, if requested by the Committee, or if in their own opinions their participation is helpful, they may present facts and educational information to the Committee and make recommendations. Their recommendations shall be considered by the Committee.
- C. The Committee members shall serve four-year terms; however, the initial appointments shall be staggered.
- D. The Committee shall meet at least one time per year. Members shall serve as volunteers with no monetary compensation.

§ 19-16. Resolution of disputes and procedure for complaints; investigation and declaration.

- A. Nuisances which affect public health.
 - (1) Complaints. A person may complain to the Queen Anne's County Health Department to declare that a nuisance exists which affects public health.
 - (2) Investigations. The County Health Officer or his agent or designee may investigate any complaint of nuisance received against a seafood operation. When a previous complaint

involving the same condition resulted in a determination by the Health Officer that a nuisance condition did not exist, the Health Officer may investigate the complaint, but the Health Officer may also determine not to investigate such a complaint. The Queen Anne's County Health Department may initiate any investigation without a citizen complaint.

- (3) Declaration of nuisance. If the Health Officer determines that a nuisance exists, the Health Department may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with a seafood operation, the Health Officer shall apply the criteria provided in this Part 3. Further, the Health Officer may consider the professional opinion of the Maryland Department of Natural Resources, the University of Maryland, or other qualified expert in the relevant field in determining whether the seafood operation being investigated is conducted in accordance with accepted seafood industry practices.

B. Resolution of disputes regarding seafood operations.

- (1) Should any controversy arise regarding an interference with the use or enjoyment of property from seafood industry operations conducted on any land within Queen Anne's County, the parties to that controversy shall submit the controversy to the Seafood Reconciliation Committee.
- (2) Any such controversy may be submitted in writing to the Seafood Reconciliation Committee within one year of the alleged adverse impacts.
- (3) The Seafood Reconciliation Committee will conduct its proceedings in an informal manner. The Committee has the power but is not required hereunder to hold hearings, to compel testimony under oath and to compel the production of documents. In each case, the Seafood Reconciliation Committee shall issue orders settling or otherwise resolving controversy arising out of seafood industry operations, including but not limited to the invasion of property and personal rights by seafood operations conducted on all real property within the boundaries of Queen Anne's County and all territorial waters, rivers, bays and creeks located within Queen Anne's County.
- (4) Orders of the Seafood Reconciliation Committee shall be binding on the parties as a matter of law, but their enforcement shall be suspended by operation of law if, within 30 days of the date of the Committee's judgment, a party appeals such order to the Circuit Court for Queen Anne's County.